

**REAL PROPERTY APPRAISER BOARD
MAIN LEVEL, ROOM "Y"
NEBRASKA STATE OFFICE BUILDING
301 CENTENNIAL MALL SOUTH, LINCOLN, NE**

November 18, 2010

OPENING

Chairman Gregg Mitchell called to order the November 18, 2010 meeting of the Nebraska Real Property Appraiser Board at 9:00 a.m., in Room "Y" located on the Main Level of the Nebraska State Office Building, 301 Centennial Mall South, Lincoln, Nebraska.

NOTICE OF MEETING

Chairman Mitchell announced the notice of the meeting was duly given, posted, published and tendered in compliance with the Open Meetings Act, and all Board members received notice simultaneously by e-mail. Publication of official notice of the meeting appeared in the November 15, 2010 edition of the *Lincoln Journal Star*, a legal newspaper of general circulation in this State, as required by the public meeting law. The agenda was kept current in the Nebraska Real Property Appraiser Board Office and on the Board's website. Materials generally used by the Board for this meeting were available in the public folder for inspection by the public and in accordance with the Open Meetings Act. A copy of the Open Meetings Act was available for the duration of the meeting. For the record, Board Members Bradford Moore, Matthew 'Joe' Wilson, Philip Barkley, David Hartman, and R. Gregg Mitchell were present. Director Kitty Policky was also present.

ADOPTION OF THE AGENDA

Chairman Mitchell reminded those present for the meeting that the Agenda cannot be altered 24 hours prior to the meeting except for emergency items according to the Open Meetings Act. Board Member Barkley moved to adopt the Agenda as printed. Vice Chairman Moore seconded the motion. With no further discussion, the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye

WELCOME GUESTS

Chair Mitchell welcomed the guests to the meeting and asked that they please sign the guest log.

APPROVAL OF THE MINUTES FROM OCTOBER 28, 2010

Chairman Mitchell asked for any additions or corrections to the October 28, 2010 minutes. With no additions or corrections, Vice Chairman Moore moved to adopt the minutes as presented. Board Member Hartman seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

CHAIRMAN'S REPORT

Chairman Mitchell noted most spare time has been spent soliciting assistance for the AMC Task Force and discussion of the Task Force is listed under Unfinished Business. Chairman Mitchell deferred discussion or comments until such time.

DIRECTOR'S REPORT

Director Policky reported the number of appraisers and the number of renewals up to the November 2010 meeting date stands as follows: 119 Registered/Conversion; 106 Licensed Residential with 30 renewed for 2011 and three renewed for 2011-12; 214 Certified Residential and 65 renewed for

2011 and 20 renewed for 2011-12; and 385 Certified General and 108 renewed for 2011 and 58 renewed for 2011-12 for a total of 824 or an increase of two Certified Residential appraiser from the October meeting and 25 less than the total for November 2009 of 849 appraisers.

Director Policky closed the report by thanking the Board for their commitment and assistance.

RECEIPTS AND EXPENDITURES REPORT – OCTOBER 2010

The receipts and expenditures for October were reviewed by the Director by line item with the Board. The Budget Status Report indicates a total of \$52,324.14 in receivables and \$10,790.32 in expenditures. The receivables are significantly higher simply because credentials are being renewed at this time. The majority of renewals will take place by the November 30th deadline. A copy of the Budget Status Report, the General Ledger Detail Report and Receipt Journal for October are attached and considered part of these minutes. Vice Chairman Moore moved to accept and file the October 2010 Receipts and Expenditures report for audit. Board Member Barkley seconded the motion. With no further discussion the motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

UNFINISHED BUSINESS

1. Licensing Inquiry: Reviews by out-of-state appraisers:

Director Policky distributed to the Board members a proposed policy to address appraisers who perform appraisal services without seeking a reciprocal or temporary permit or appraisers who do not physically enter the state. Under the Nebraska Real Property Appraiser Act §76-2220, Nebraska is a mandatory state . . . “it shall be unlawful for anyone to act as a real property appraiser in this state without first obtaining proper credentialing as required.” Appraisers who enter the state are required to apply for a reciprocal or temporary credential to perform appraisal services.

Appraisers performing appraisal services as defined in NAC Title 298, Rules and Regulations 001.03 . . . “real estate or real property appraisal practice means the valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting; and means an opinion of value, the act or process of developing an opinion of value, or pertains to appraising and related functions such as appraisal practice or appraisal services” concludes like requirements. Appraisers performing appraisal services without entering the state will be required to obtain a reciprocal or temporary credential.

Discussion led to the question of jurisdiction. Under the law as well as rule if an out-of-state appraiser performs a valuation service without a credential an enforcement case is filed in Nebraska and the case would be forwarded to the resident state. If an appraiser performs a valuation service and enters the state and does have a credential issued by Nebraska, the case now comes before the Nebraska Real Property Appraiser Board.

The Board proposed the following policy for consideration at the December meeting of the Board:

All appraisers performing appraisal services as defined in NAC Title 298, Rules and Regulations 001.03 . . . “real estate or real property appraisal practice means the valuation services performed by an individual acting as an appraiser, including but not limited to appraisal, appraisal review, or appraisal consulting; and means an opinion of value, the act or process of developing an opinion of value, or pertains to appraising and related functions such as appraisal practice or appraisal services” concludes the Board to require any individual performing an appraisal service without entering the State of Nebraska will be required to first obtain a reciprocal or temporary credential.

Nebraska is a mandatory state. Real Property Appraiser Act §76-2220 . . . “it shall be unlawful for anyone to act as a real property appraiser in this state without first obtaining proper credentialing as required except as provided in section 76-2221.”

- All individuals entering the state to perform appraisal services shall be required to first obtain a reciprocal or temporary credential.

- All appraisers credentialed in states other than Nebraska performing an appraisal service in Nebraska without entering the state of Nebraska shall be required to first obtain a reciprocal or temporary credential.

Board took a break at 10:08 a.m.

Board meeting reconvened at 10:21 a.m.

Vice Chairman Moore moved to return the proposed policy to the December meeting for a final vote in an effort to give Members time for consideration of the proposed policy. Board Member Barkley seconded the motion. With no further discussion the motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

NEW BUSINESS

1. Investigator Training II

Continuing the partnership from the Investigator Training Level I, The Appraisal Foundation and the Association of Appraiser Regulatory Officials (AARO) offered training to state regulatory members who attended the first session of investigator training as Level II investigator training. The goal of these investigator training sessions is to promote greater nationwide consistency in the evaluation and investigation of complaints received about appraisers. Each state was allowed two representatives. Vice Chairman Moore and Board Member Wilson attended the Investigator Training II in Scottsdale, Arizona November 11-13 and presented a report as well as materials that the Board may find useful in the enforcement process.

Vice Chairman Moore reported the number one topic discussed was the budget and staff cuts for state agencies and the next issue was the sweeping of funds. A topic that Nebraska participants could relate to with the passage of LB1, 2, & 3 in 2009.

A check-off list used to apply the Uniform Standards of Professional Appraisal Practice Standard 3 Compliance Report in a shorter format to review application reports as well as enforcement reports was considered for future application by perhaps combining the form Nebraska presently uses with the shorter check-off version. The compliance report process may be easier to grasp in a few pages instead of twenty plus pages. The shorter version would not eliminate the need to understand and apply the Uniform Standards but may make such application perhaps easier to apply. A combined form will be considered at a future date.

Another topic that was presented at the training was the review of reports developed by the trainee as they progress to perhaps curb problems they are experiencing as they learn instead of waiting until the trainee has acquired a substantial number of hours of experience. Chairman Mitchell commented that this method is used by the Appraisal Institute to track the progress of appraiser candidates.

2. AMC Task Force

Board Members David Hartman and Joe Wilson presented to the meeting a potential list of individuals who have been contacted to sit on the Task Force to develop Appraisal Management Company legislation as well as an invitation to include the 2009 participants.

Board Member Hartman had not scheduled a meeting to date but would keep the Board updated on the progress of the Task Force.

GENERAL PUBLIC COMMENTS

Chair Mitchell asked for any public comments. With no further comments, the Chair proceeded to education.

EDUCATION

There were no education submissions for the November meeting.

Board took a break at 11:25 a.m.

Board meeting reconvened at 11:35 a.m.

APPLICANTS & ENFORCEMENT

Vice Chair Moore moved that the Board go into executive session for the purpose of reviewing applicants for credentialing and consideration of written complaints and disciplinary action. A closed session is clearly necessary to prevent needless injury to the reputation of the individual or individuals relating to the issues of qualifying applicants and relating to the alleged violations of performance in real property appraisal practice. The time on the meeting clock was 10:14 a.m. Board Member Wilson seconded the motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, Moore, and Mitchell voting aye.

Vice Chair Moore moved to come out of executive session at 11:51 a.m. Board Member Wilson seconded the motion. The motion carried with Barkley, Hartman, Moore, Wilson, and Mitchell voting aye.

MOTIONS TO ACT ON CLOSED SESSION AGENDA

Chairman Mitchell opened the floor to discussion of closed session agenda items.

Vice Chair Moore moved to take the following action for the Registered applicant:

R877 / Applicant meets Statutory obligations of §76-2229.01. Approve to sit for examination.

Vice Chair Moore moved to take the following action for a Licensed Residential applicant:

L591 / Applicant meets statutory obligations of §76-2230. Approve for credentialing when successful completion of exam is submitted.

Vice Chair Moore moved to take the following action for a Certified Residential applicant:

CR380 / Select three (3) appraisal reports for a residential: <20 years; residential >20 years and a 2-4 family for Standard 3 Report. Approve to submit for examination.

CR381 / Select three (3) appraisal reports for a residential: <20 years; residential >20 years and a 2-4 family for Standard 3 Report. Approve to submit for examination.

Board Member Wilson seconded the motion. Motion carried with Hartman, Moore, Wilson, Barkley, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement actions:

- 09-26 Hold. Chairman signed Consent Agreement to 15-hour National USPAP course; 15-hour Residential Report Writing & Case Studies to be completed by 11/30/2010. Respondent's credential will be downgraded permanently to Certified Residential immediately. Extension granted 1/31/2011 for education due date.
- 10-03 Hold. Consent Agreement 15-hour National USPAP & General Report Writing & Case Studies by 11.30.2010.
- 10-05B Hold. Consent Agreement 15-hour National USPAP & Residential Report Writing & Case Studies. Due by 11.30.2010.
- 10-07A Hold. Consent Agreement 15-hour National USPAP & Residential Report Writing & Case Studies. Due by 12.31.2010. Extension granted 1/31/2011.
- 10-07B Hold. Consent Agreement 15-hour National USPAP & Residential Report Writing & Case Studies. Due by 12.31.2010. Extension granted 1/31/2011.
- 10-08 Hold. Consent Agreement. 15-hour National USPAP; 30-hour General Report Writing & Case Studies; no supervisory or advisory; education due by 12.31.2010.
- 10-15 Chairman sign Consent Agreement to 15-hour National USPAP and 15-hour Residential Report Writing & Case Studies. No supervisory or advisory. Education due 4/30/2011.
- 10-19 Hold / Respondent has not submitted fee for State Treasurer costs for processing check for insufficient funds.
- 10-21 Chairman sign Consent Agreement to 15-hour National USPAP and 15-hour Residential Report Writing & Case Studies. No supervisory or advisory. Education due 4/30/2011.
- 10-23A & B Advisory letter.
- 10-24 Respondent submitted corrected advertising. Close
- 10-27 Hold. Compliance report not complete.
- 10-28 Request true copy report and workfile. Send for Standard 3 Compliance Report.
- 10-29 Request true copy report and workfile. Send for Standard 3 Compliance Report.

Board Member Wilson seconded the Motion. With no further discussion the motion carried with Moore, Wilson, Barkley, Hartman, and Mitchell voting aye.

Vice Chair Moore moved to take the following enforcement actions:

- 10-25 Report meets minimum Uniform Standards, statute, and law. Dismiss. Close.

Board Member Wilson seconded the Motion. With no further discussion the motion carried with Wilson, Barkley, Hartman, and Moore voting aye. Chairman Mitchell abstained.

Vice Chair Moore moved to take the following enforcement action:

- 09-07 Hold. No action taken.
- 09-09 Hold. No action taken.
- 09-25 Hold until Case #09-07 & #09-09 are completed.

Board Member Barkley seconded the motion. The motion carried with Barkley, Hartman, Moore, and Mitchell voting aye. Board Member Wilson abstained.

Tentative meeting dates were approved as follows: December 16, 2010 / 1Y
January 20, 2011 / 1Y
February 17, 2011 / 1Y

ADJOURNMENT

Board Member Wilson moved to adjourn the meeting. Board Member Barkley seconded the motion. Motion carried unanimously.

At 12:30 p.m. Chairman Mitchell adjourned the November 18, 2010 meeting of the Real Property Appraiser Board.

Respectfully submitted,

Kitty Policky, Director

These minutes were available for public inspection on November 30, 2010, in compliance with Nebraska Statute §84-1413(5).